

Proposed amendments to Supreme Judicial Court Rule 3:01, Sections 1,3, and 6

(Sections not amended are not included)

- 1.1 *Admission by Written Examination.* Persons desiring admission to the bar of the Commonwealth by written examination shall apply by filing with the Clerk of the Supreme Judicial Court for the county of Suffolk:
 - 1.1.1 Petition for Admission accompanied by the recommendation of a member of the bar of this Commonwealth or of any state, district or territory of the United States;
 - 1.1.2 Applicant's Statement;
 - 1.1.3 Authorization Form;
 - 1.1.4 Law School Certificate;
 - 1.1.5 Multistate Professional Responsibility Examination Score Report that sets forth a passing scaled score;
 - 1.1.6 Two (2) Letters of Recommendation for Admission; and
 - 1.1.7 Current Certificate(s) of Admission and Good Standing from the highest judicial court of each state, district, territory or foreign country to which the applicant is admitted, if applicable.
- 1.2 *Admission by Motion.* Persons desiring admission to the bar of the Commonwealth by motion, pursuant to Rule 3:01, Section 6.1 shall apply by filing with the Clerk of the Supreme Judicial Court for the county of Suffolk:
 - 1.2.1 Petition for Admission accompanied by the recommendation of a member of the bar of this Commonwealth or of any state, district or territory of the United States;
 - 1.2.2 Applicant's Statement;
 - 1.2.3 Multistate Professional Responsibility Examination Score Report;
 - 1.2.4 National Conference of Bar Examiners Request for Preparation of a Character Report;
 - 1.2.5 Three (3) letters of Recommendation for Admission from members of the bar of the Commonwealth or of the bar of the state, district or territory of the United States where the applicant is admitted or last practiced. At least one letter must be from a member of the bar of the state, district or territory of the United States where the applicant is admitted;
 - 1.2.6 Current Certificate(s) of Admission and Good Standing from the highest judicial court of each state, district, territory or foreign country to which the applicant is admitted;
 - 1.2.7 Letter from the grievance or disciplinary entity of each state, district, territory or foreign country to which the applicant is admitted indicating that there are no charges pending against the applicant;
 - 1.2.8 Proof of active practice or teaching of law in a state, district or territory of the United States for five out of the past seven years immediately preceding the filing of petition for admission on motion.

1.3 *Referral to Board of Bar Examiners.* All petitions for admission with accompanying materials shall be referred to the Board of Bar Examiners for a report as to the character, acquirements and qualifications of the applicant.

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Section 3. Qualifications for Taking Bar Examination

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3.1 *High School.* Each applicant for admission by examination shall have been graduated from a public high school or its equivalent, or shall have received the equivalent education in the opinion of the Board.

3.2 *College.* Each applicant shall have completed the work acceptable for a bachelor's degree in a college or university, or have received an equivalent education in the opinion of the Board.

3.3 *Law School.* Each applicant shall have graduated with a degree of bachelor of laws or juris doctor from a law school which, at the time of graduation, is approved by the American Bar Association or is authorized by statute of the Commonwealth to grant the degree of bachelor of laws or juris doctor.

3.4 *Graduates of Foreign Law Schools.* Graduates of law schools in foreign countries must have a college and legal education that is, in the opinion of the Board, similar in nature and quality to that of graduates of law schools approved by the American Bar Association. Before permitting such an applicant to take the law examination, the Board in its discretion may, as a condition to such permission, require such applicant to take such further legal studies as the Board may designate at a law school approved by the American Bar Association.

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Section 6. Admission on Motion

6.1 A person who has been admitted as an attorney of the highest judicial court of any state, district or territory of the United States may apply to the Supreme Judicial Court for admission on motion as an attorney in this Commonwealth. Prior failure to pass the Massachusetts bar examination creates a rebuttable presumption against admission on motion. The Board of Bar Examiners may, in its discretion, excuse the applicant from taking the regular law examination on the applicant's compliance with the following conditions:

6.1.1 The applicant shall have been admitted in another state, district or territory of the United States for at least five years prior to applying for admission in the Commonwealth, and shall have engaged in the active practice or teaching of law in a state, district or territory of the United States for five out of the past seven years immediately preceding the filing of the petition for admission on motion.

6.1.2 The applicant shall have so engaged in the practice or teaching of law since the prior admission as to satisfy the Board of Bar Examiners of his or her good moral character and

professional qualifications.

6.1.3 Omitted

6.1.4 *Graduates of law schools in a state, district or territory of the United States.* The applicant shall have graduated from high school, or shall have received the equivalent education, in the opinion of the Board, completed work for a bachelor's degree at a college or university, or its equivalent, and graduated from a law school which at the time of graduation was approved by the American Bar Association or was authorized by a state statute to grant the degree of bachelor of laws or juris doctor.

Graduates of Foreign Law Schools. Graduates of law schools in foreign countries must have a college and legal education that is, in the opinion of the Board, similar in nature and quality to that of graduates of law schools approved by the American Bar Association.

6.1.5 The applicant shall pass the Multistate Professional Responsibility Examination if he or she has not previously passed that examination in another jurisdiction.

6.2 Omitted

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6.3 *Notice and Publication for Admission under Section 6.* Before the Board of Bar Examiners reports to the Court on the character, acquirements, and qualifications of applicants for admission, the Board shall prepare a list of names of applicants who, if no objection is made, may be recommended to the Supreme Judicial Court for admission.

A copy of the list of names shall be sent to the Clerk of the Supreme Judicial Court for Suffolk County and the clerk of courts for each county who shall post the list in a public place for a period of seven days from a date fixed by the Board of Bar Examiners.

A copy of the list of names shall be sent to the Board of Bar Overseers, to the Massachusetts Bar Association, to the Boston Bar Association and such other bar associations and newspapers in the Commonwealth as the Board of Bar Examiners may determine.

6.4 *Report to the Court.* Not sooner than ten days after the date fixed for posting by the Board of Bar Examiners, the Board may report to the Supreme Judicial Court the names of those applicants then found qualified for admission under § 6.

6.5 *Time Limitation for Enrollment.* Except as otherwise ordered by a Justice of the Supreme Judicial Court, a qualified applicant may be sworn and enrolled as an attorney within one year of the report to the Court. Failure to be so sworn and enrolled will result in dismissal of the application.

Proposed Board of Bar Examiner New Rule VI

VI.1 Foreign law school graduates - Requirements for Examination and Admission on Motion:

Graduates of law schools in foreign countries may be permitted to sit for the general bar examination and apply for admission on motion upon obtaining a prior determination of their education sufficiency from the Board of Bar Examiners. (See VI.7. below for a special rule on Canadian law schools)

VI.2 Request for Advanced Determination on Education:

Except for those qualified by VI.7, at least four months prior to making application all foreign educated attorneys who wish to obtain a determination of their eligibility to apply for admission either by exam or admission on motion in Massachusetts must submit a cover letter that describes the action sought from the Board, the reason for the request, and the following documentation:

Documentation Required:

In order for the Board to determine sufficiency, each foreign educated attorney shall supply the Board with the following documents written in or translated into English:

- i.) Official Transcripts: An official transcript from every college, university and law school (foreign or American) attended; this must include the courses taken, the grade for each course, the degree and date awarded, and the dates of attendance;
- ii.) Diploma: Copies of all diplomas or degree certificates;
- iii.) Course Descriptions: Descriptions of all courses, if not included in the transcripts, along with the method of study, i.e. classroom or long distance learning, etc.;
- iv.) Certificate(s) of Admission: An official Certificate of Admission and Certificate of Good Standing from each jurisdiction to which the attorney is admitted; and
- v.) Resume: A resume detailing work history.

This documentation will not be returned to the applicant.

VI.3 Determination of Educational Sufficiency:

In making a determination of educational sufficiency, the Board of Bar Examiners takes into consideration the following:

The jurisprudence in the country of the foreign law school

The course of study that was completed at the foreign law school as compared to that offered in a law school approved by the American Bar Association (ABA)

The attorney's pre-legal education as compared to that offered in a US high school and college or university

The attorney's license to practice law in either a foreign or American jurisdiction

The length and nature of prior legal practice or teaching, if any

The applicant's familiarity with the American constitutional, common-law and statutory legal systems

The applicant's successful completion of additional legal studies.

Standards. Applicants who meet the following standards will be deemed to have an education similar in nature and quality to that of graduates of law schools accredited by the American Bar Association.

Standards for graduates of law schools in countries with common-law tradition:

1. The applicant is admitted to the practice of law in a foreign country;
2. The applicant is in good standing at the bar in all jurisdictions where he or she is admitted; and
3. The applicant has successfully completed fifteen credit hours of courses in the categories listed below at a law school that is ABA accredited or authorized by a Massachusetts statute to grant the degree of bachelor of laws or juris doctor. The required credit hours must include a course in basic constitutional law and a course in professional responsibility. Distance study, correspondence study and on-line

programs are not acceptable.

Standards for graduates of law schools in countries with civil-law tradition:

1. The applicant is admitted to the practice of law in a foreign country;
2. The applicant is in good standing at the bar in all jurisdictions where he or she is admitted; and
3. The applicant has successfully completed an LLM program of at least twenty four credit hours at a law school that is ABA accredited or authorized by a Massachusetts statute to grant the degree of LLM, which program includes a course in basic constitutional law, a course in professional responsibility, and a minimum of one course from at least three of the **other** categories listed below. Distance study, correspondence study and on-line programs are not acceptable.

List of categories for additional courses :

The categories listed below represent a consolidation of the subjects tested on the bar examination. They encompass a range of courses falling within the category.

1. Business Organization: to include bar exam subjects Agency, Business Organizations
2. Commercial Law: to include bar exam subjects Contracts and Uniform Commercial Code (articles 1-9)
3. Constitutional Law
4. Criminal Justice: to include bar exam subject Criminal Law
5. Property and Estate Planning: to include bar exam subjects Descent and Distribution of Estates, Real Property, Trusts and Wills
6. Domestic Relations
7. Procedural Law: to include bar exam subjects Evidence (including Federal Rules), Federal Jurisdiction, Federal Rules of Civil Procedure, and Massachusetts Rules of Civil Procedure

8. Professional Responsibility

9. Torts and Unfair or Deceptive Practices (G.L. c. 93A): to include bar exam subjects Torts and Unfair or Deceptive Practices (G.L.c. 93A)

VI.4 Method of Evaluation:

Each file is reviewed individually on its own merits. Upon completion of its review, the Board issues a determination that the foreign educated attorney a) must take further legal studies as the Board may designate at law school accredited by the ABA or authorized by a Massachusetts statute to grant the degree of bachelor of laws or juris doctor; or b) is eligible to apply to sit [for](#) the bar examination; or c) is eligible to apply for admission on motion provided all other requirements are met.

VI.5 Burden of Proof:

The attorney has the burden to demonstrate that he or she has obtained an education similar in nature and quality to that of a graduate of a law school accredited by the American Bar Association.

VI.6 Appeals:

Attorneys who are dissatisfied with the Board's determination concerning their foreign education may write a letter to the Board requesting a reconsideration of its decision.

Information regarding the process of appeal to the Supreme Judicial Court may be obtained by contacting an assistant clerk in the Clerk's Office of the Supreme Judicial Court for Suffolk County.

VI.7 Canadian Law Schools:

Graduates of common law studies at Canadian law schools that are members of the Law School Admissions Council shall be permitted to sit for the general bar examination on the same basis as graduates of law schools approved by the American Bar Association. A list of such law schools appears below:

Dalhousie University
McGill University

University of Ottawa
University of Saskatchewan

Queen's University
University of Alberta
University of British Columbia
University of Calgary
University of Manitoba
University of New Brunswick

University of Toronto
University of Victoria
University of Western Ontario
University of Windsor Faculty of Law
York University- Osgoode Hall Law School

The following are Supreme Judicial Court decisions concerning foreign education equivalency:

Wei Jia v. Board of Bar Examiners, 427 Mass. 777 (1998)

Osakwe v. Board of Bar Examiners, 448 Mass. 85 (2006)

Yakah v. Board of Bar Examiners, 448 Mass. 740 (2006)